



SHARON BULOVA
CHAIRMAN

COMMONWEALTH OF VIRGINIA
County of Fairfax
BOARD OF SUPERVISORS

R-63-2010 p.9736

860
SUITE 530
12000 GOVERNMENT CENTER PKWY
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE: 703/324-2321
FAX: 703/324-3955
TTY: 711

chairman@fairfaxcounty.gov

October 19, 2010

Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

NOV 01 2010

Dear Sir or Madam:

The purpose of this letter is to provide joint comments on the Commonwealth of Virginia's Draft Chesapeake Bay TMDL Phase I Watershed Implementation Plan (WIP) and the EPA's Draft Chesapeake Bay Total Maximum Daily Load (TMDL) on behalf of the Fairfax County Board of Supervisors. Located in Northern Virginia just outside of Washington D.C., Fairfax County is the most populous local jurisdiction in the Chesapeake Bay watershed. The county has a long history of progressive environmental management, and we appreciate the opportunity to provide comments on both the Draft Phase I WIP and Draft TMDL which together will drive increased efforts to restore the Chesapeake Bay through 2025 and beyond.

Both draft documents outline sector-specific implementation measures for the different source categories that impact the bay. The ultimate responsibility for controlling several of these source sectors, most notably wastewater and urban stormwater, falls to local governments, and the cost to comply with the controls proposed will be borne by the same local tax and rate payers.

Significant progress has already been made in controlling wastewater discharges in Northern Virginia. Of the five wastewater treatment plants (WWTPs) that treat sewage from Fairfax County homes and businesses, four are in the process of upgrading to the limits of technology at an estimated cost to Fairfax County rate payers of about \$350 million. The only exception is the Upper Occoquan Service Authority (UOSA), which currently is permitted to discharge at 8 mg/L total nitrogen. This exception was made in order to protect water quality in the Occoquan Reservoir, which is a major source of drinking water in Northern Virginia. Extensive monitoring and analysis have proven that discharging this higher level of nitrogen is necessary to maintain water quality. We urge the Commonwealth and EPA to modify the Draft WIP and TMDL to ensure that UOSA is allowed to continue to discharge nitrogen at the level necessary to protect the Occoquan Reservoir.

The other four WWTPs that receive flows from the county are Blue Plains, the Alexandria Sanitation Authority, the Arlington County Water Pollution Control Plant and the Noman M. Cole Jr. Pollution Control Plant, all four of which are in the process of meeting a discharge concentration at or below 4 mg/L total nitrogen. The cost of achieving these discharge rates is

OCT 27 2010

Water Docket, Environmental Protection Agency
Comments on Virginia's Draft Chesapeake Bay TMDL Phase I WIP
and EPA's Draft Chesapeake Bay TMDL
Page 2 of 4

being borne by system users in the county who are facing double digit increases in their sewer rates over the next several years.

A second source sector targeted in both the Draft WIP and the Draft TMDL is urban and suburban stormwater. Stormwater runoff from existing development is regulated through municipal separate storm sewer system (MS4) permits. Fairfax County holds a Phase 1 MS4 permit. While the Draft WIP lacks clarity on what the exact requirements would be for urban and suburban stormwater, EPA's Draft TMDL defines an aggressive backstop allocation.

It is not at all clear how, or even if, these stringent standards can be met using current stormwater management practices, especially given that most soils in urban areas are highly compacted and will not support infiltration practices. We have seen several estimates for implementation of retrofits for existing impervious cover. One estimated a cost of an additional \$90 million per year, while more detailed analyses have indicated the costs to be more in the range of \$250 to well over \$300 million per year, which is similar to an EPA estimate for urban retrofits. It is important to understand that, using the \$250 million estimate, the tax rate increase an average homeowner will see is over 10%, or more than \$600/year, none of which includes operations. This also does not include costs associated with operating and maintaining all of the new stormwater management facilities that will be required.

Local governments support a healthy environment and have a constructive role to play in improving water quality in the Chesapeake Bay and in all waters of Virginia. However, we have significant concerns about the costs that the TMDL initiative will impose on local governments and their residents. A sound strategy for improving water quality to levels required by EPA will not succeed unless the economic costs associated with these efforts are fully understood, and a plan is developed for distributing these costs among the different levels of government.

Further, given the current economic conditions, these initiatives could not be coming at a more difficult time. Because of Virginia's fiscal constraints, state aid to localities has fallen by \$1 billion since 2008. These cuts in state aid have affected our public schools, mental health programs, social services and public safety. The economic downturn and ongoing foreclosure crisis have directly impacted local government revenues and have forced many localities to cut back on the services they provide and on their workforces. From June 2009 to June 2010, 15,600 local government jobs in Virginia were eliminated. These points are not being made to suggest that local governments should not be active partners in improving water quality; in fact, we have done the lion's share of the work in this area. Our chief contention is that there is a major role that the federal and state governments must take in underwriting the costs of the very expensive programs that the Chesapeake Bay TMDL will generate.

We are committed to restoring the Bay. However, no matter how laudable the intentions behind the development of the Chesapeake Bay TMDL, the most certain outcome will be another disappointing program failure if indifference at the federal level to economic and fiscal impacts continues. If concerns related to costs are not analyzed and addressed at the early stages of this initiative, the entire program will fail under the weight of the economic burdens it will impose upon many local governments and businesses and then to individual households. We understand,


Water Docket, Environmental Protection Agency
 Comments on Virginia's Draft Chesapeake Bay TMDL Phase I WIP
 and EPA's Draft Chesapeake Bay TMDL
 Page 3 of 4

from EPA's public comments, that cost is not one of their considerations in developing the TMDL. However, without a firm understanding of the costs and how the burdens of meeting these costs will be distributed, there will be neither equity nor the true "partnership" advocated by the state and EPA, and local governments will be set up for failure.

Finally, in developing the Chesapeake Bay TMDL, we must all remember that the current conditions in our urbanized watersheds developed over many decades and that most of the land is privately owned. Plans and programs developed under the current initiatives need to take into account what can be achieved by localities, given their unique constraints over the short and long-term. There are significant environmental benefits to redevelopment and transit-oriented development, as well as adverse environmental impacts associated with sprawl; and beneficial development and redevelopment projects should not be hindered as a result of this effort. If the costs of these stormwater management efforts are made to be too high, or if the stormwater management standards effectively become unattainable, these beneficial redevelopment efforts will be hindered. A punitive focus on MS4 permits could ultimately prove detrimental to water quality by preventing development and redevelopment in already urbanized areas and driving new development into rural areas. Improvements can and should be made in how urban and suburban stormwater is managed, but they must be made in a sustainable manner by working collectively towards a common goal.

Thank you for the opportunity to provide these comments. We look forward to continued participation in the development and successful implementation of the Chesapeake Bay TMDL and restoration efforts.

Sincerely,



Sharon Bulova
 Chairman

cc: Members, Fairfax County Board of Supervisors
 The Honorable James H. Webb, United States Senate
 The Honorable Mark R. Warner, United States Senate
 The Honorable James P. Moran, United States House of Representatives
 The Honorable Frank R. Wolf, United States House of Representatives
 The Honorable Gerald E. Connolly, United States House of Representatives
 The Honorable Doug Domenech, Virginia Secretary of Natural Resources
 Members, Fairfax County Delegation to the Virginia General Assembly
 David Paylor, Director, Virginia Department of Environmental Quality
 David Johnson, Director, Virginia Department of Conservation and Recreation
 Anthony H. Griffin, County Executive
 Susan E. Mittereder, Fairfax County Legislative Director
 Claudia Arko, Fairfax County Legislative Liaison

Water Docket, Environmental Protection Agency
Comments on Virginia's Draft Chesapeake Bay TMDL Phase I WIP
and EPA's Draft Chesapeake Bay TMDL
Page 4 of 4

James W. Patteson, Director, Department of Public Works and Environmental Services
(DPWES)
Randolph W. Bartlett, Deputy Director, DPWES